

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Miskovski	Team: Squad #3	CCRB Case #: 201905313	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/06/2019 6:09 PM	Location of Incident: Opposite 651 River Avenue at Bronx Terminal Market	Precinct: 44	18 Mo. SOL 11/6/2020	EO SOL 6/23/2021	
Date/Time CV Reported Tue, 06/18/2019 3:55 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/18/2019 3:55 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Roosevelt Monestime	11216	960959	044 PCT
3. POM Robert Gaylog	09105	963533	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Benjamin Hinderman	04012	966625	044 PCT
2. SGT Alfonsina Delacruz	5059	932538	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Roosevelt Monestime	Force: Police Officer Roosevelt Monestime used physical force against § 87(2)(b)	
B. Officers	Force: On May 6, 2019, opposite 651 River Avenue in the Bronx, Officers used physical force against § 87(2)(b)	
C.POM Robert Gaylog	Discourtesy: Police Officer Robert Gaylog spoke discourteously to § 87(2)(b)	
D.POM Roosevelt Monestime	Abuse: Police Officer Roosevelt Monestime did not obtain medical treatment for § 87(2)(b)	

Case Summary

On June 18, 2019, § 87(2)(b) filed this complaint with the CCRB via phone.

On May 6, 2019, in front of Bronx Terminal Market across from 651 River Avenue in the Bronx, § 87(2)(b) parked his vehicle to pick up his sister, § 87(2)(b). While helping § 87(2)(b) into the back of the vehicle, § 87(2)(b) was noticed by field training Police Officer Roosevelt Monestime and his trainee, Police Officer Benjamin Hinderman, both of the 44th Precinct. PO Monestime suspected § 87(2)(b) of operating an illegal taxi, because in his police experience, normal drivers do not walk up to the people they are supposed to pick up from a location and also have them sit in the back of the vehicle. PO Monestime approached § 87(2)(b) and asked for his license and registration and to speak with § 87(2)(b). § 87(2)(b) objected to PO Monestime speaking with his sister and told her not to speak with the officers. PO Monestime told § 87(2)(b) to back up and placed a hand on § 87(2)(b) chest. § 87(2)(b) slapped PO Monestime's hand. PO Monestime attempted to grab § 87(2)(b) who backed away. The two fell onto the ground in the middle of the street. § 87(2)(b) braced himself above PO Monestime, who was lying on his back, underneath § 87(2)(b). PO Monestime struck § 87(2)(b) three times in the face as PO Hinderman attempted to grab § 87(2)(b) from behind (**Allegation A: Physical Force**, § 87(2)(g)). Once § 87(2)(b) learned they were recording, he allowed himself to be handcuffed. Several other officers from the 44th Precinct arrived at the location, including Police Officer Robert Gaylog. The group of officers escorted § 87(2)(b) to PO Monestime's police vehicle. § 87(2)(b) refused to enter the vehicle, causing PO Gaylog, PO Monestime, and PO Hinderman to push him into the vehicle. § 87(2)(b) also felt several officers punch him in the back as they were placing him into the vehicle (**Allegation B: Physical Force**, § 87(2)(g)). PO Gaylog told the other officers, "Just toss him in the fucking car," (**Allegation C: Discourtesy-word**, § 87(2)(g)). PO Monestime and PO Hinderman drove § 87(2)(b) back to the 44th Precinct stationhouse. En route to the stationhouse, § 87(2)(b) suffered a seizure, and PO Monestime, the commanding officer—as he was the field training officer for PO Hinderman—did not call for medical assistance (**Allegation D: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was taken back to the 44th Precinct stationhouse and lodged in the cells, where he suffered from another seizure and was removed to § 87(2)(b) for treatment.

§ 87(2)(b) was arrested for § 87(2)(b) (44 Board Review).

There is cell phone video footage of the initial confrontation (**01-09 Board Review**). There is Body-worn Camera (BWC) footage from PO Monestime, PO Hinderman, PO Gaylog, PO Mark Buono, Sgt. Adam Ferguson, PO Timothy Burke, PO Dylan Mannion, PO Robert Vargas, PO Jordan Perez, PO Philip Heckett, PO Daniel Diaz, PO Todd Jacoby, PO Daniel Bianco (**10-27 Board Review**).

Findings and Recommendations

Allegation (A) Force: Police Officer Roosevelt Monestime punched § 87(2)(b)

It is undisputed that PO Monestime punched § 87(2)(b) in the face while he was pinned to the ground by § 87(2)(b). § 87(2)(b) did not hit PO Monestime, but did pin PO Monestime to the ground while § 87(2)(b) remained above him, with PO Hinderman on § 87(2)(b) back.

In his interview with the CCRB, § 87(2)(b) admitted that if he had wanted to, due to the positions of their bodies, he could have caused major damage to PO Monestime, but did not because he did not want to harm him (**28 Board Review**).

In his CCRB interview, PO Monestime stated that he struck § 87(2)(b) in the face to have § 87(2)(b) move from the pinning position. Due to the positioning of their bodies, PO Monestime could only hit § 87(2)(b) face. Furthermore, since he was pinned, PO Monestime feared for his life (**29 Board Review**).

Cell phone video footage shows the punch and corroborated PO Monestime's statement that he was pinned, located in IA #25, at the 00:08 timestamp (**02 Board Review**).

NYPD Patrol Guide Procedure 221-01 states that "force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody." It establishes criteria to assess the use of force as follows: a. the nature and severity of the crime/circumstances; b. actions taken by the subject; c. duration of the action; d. immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; e. whether the subject is actively resisting custody; f. whether the subject is attempting to evade arrest by flight; g. number of subjects in comparison to the number of MOS; h. size, age, and condition of the subject in comparison to the MOS; i. subject's violent history, if known; j. presence of hostile crowd or agitators; k. subject apparently under the influence of a stimulant/narcotic which; would affect pain tolerance or increase the likelihood of violence (**30 Board Review**).

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Officers used physical force against § 87(2)(b) –

Allegation (C) Discourtesy: Police Officer Robert Gaylog spoke discourteously to § 87(2)(b) –

§ 87(2)(b) stated that after being handcuffed and escorted to the parked police vehicle, several officers punched him in the back while trying to place him in the vehicle (**28 Board Review**). He did not know which officers hit him. § 87(2)(b) stated that he was tensing and refused to enter the vehicle because he was scared, but eventually acquiesced (**28 Board Review**).

From the BWC footage, the investigation has determined that PO Monestime, PO Gaylog, and PO Hinderman were the three officers who made physical contact with § 87(2)(b) torso (**12 Board Review**). In IA #72, BWC from PO Gaylog from 1:20 to 2:12, PO Gaylog, PO Monestime, and PO Hinderman push and press a tensing § 87(2)(b) against the police vehicle and tell him to calm down, while other officers press into his arms (**12 Board Review**). PO Monestime, PO Hinderman, and PO Gaylog denied using force to gain compliance while placing § 87(2)(b) in the police vehicle (**29, 32, and 31 Board Review**).

In his statement to the CCRB, PO Gaylog denied saying, "Toss him § 87(2)(b) in the fucking car," while placing § 87(2)(b) in the vehicle with the other officers (**31 Board Review**). When shown his BWC that shows him making the statement, PO Gaylog did not believe that it was he who said it (**31 Board Review**).

In his BWC, IA #72, at 1:07, PO Gaylog tells § 87(2)(b) "Relax bro, it's over. Toss him and put him in the fucking car," (**12 Board Review**), while § 87(2)(b) is held by PO Hinderman and frisked by PO Monestime. § 87(2)(b) becomes visibly upset and begins to twist and shout at

PO Gaylog, “Toss me what? I’m a grown-ass man,” (12 Board Review).

§ 87(2)(g)

NYPD Patrol Guide Procedure 203-10 instructs officers to refrain from using discourteous remarks towards civilians (33 Board Review). NYPD Department Advocate Office (DAO) case 2017-17276 states that discourteous language can be excused in vases of violent confrontations, such as determined resistance to an arrest (42 Board Review).

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Roosevelt Monestime did not obtain medical treatment for § 87(2)(b)

§ 87(2)(g)

It is undisputed that en route to the 44th Precinct stationhouse, § 87(2)(b) had a seizure in the back of the police vehicle. BWC footage from PO Hinderman, in IA #87, from 2:43 to 3:50, shows § 87(2)(b) seizing in the backseat with aspirated breathing, uncontrolled shaking, and his head slamming into various windows (27 Board Review) The time of this seizure was approximately 6:13 p.m.

However, PO Monestime stated in his CCRB interview that he believed § 87(2)(b) was faking the seizure and told PO Hinderman that § 87(2)(b) was “acting up,” because when he walked to the back of the vehicle, § 87(2)(b) stopped (29 Board Review). PO Monestime stated that per NYPD procedure an ambulance would never be called in the field, because a sick prisoner needs to be searched at the stationhouse before going to the hospital (29 Board Review). PO Monestime believed that an ambulance was eventually called for § 87(2)(b) at the stationhouse, but he did not know who made the call (29 Board Review).

In PO Monestime’s own BWC, located in IA #82 at time stamp 9:10, he can be seen trying to coax a visibly disoriented § 87(2)(b) out of the vehicle once they’ve reached the stationhouse by telling him, “We’ll get an ambulance for you. Come out,” (22 Board Review). Also in the same BWC, at time stamp 23:02, once at the desk, PO Monestime asks § 87(2)(b) “You said you want an ambulance?” and § 87(2)(b) says, “Yeah,” (22 Board Review). § 87(2)(b) is asked this question at approximately 6:30 p.m. according to the BWC (22 Board Review). However, as previously stated, PO Monestime did not ultimately call an ambulance for § 87(2)(b) (29 Board Review).

In her statement to the CCRB, Police Sergeant Alfonsia Delacruz of the 44th Precinct, was acting desk sergeant during § 87(2)(b) arraignment (34 Board Review). She was not informed of any possible medical emergency during the transport of § 87(2)(b) to the 44th Precinct stationhouse. She stated that an ambulance was called for § 87(2)(b) because he had a seizure in the cells of the stationhouse. Sgt. Delacruz instructed PO Hinderman to call 911 and request emergency medical assistance for § 87(2)(b) (34 Board Review). Sgt. Delacruz stated that the ambulance was called for the seizure in the stationhouse and did not remember PO Monestime or PO Hinderman requesting medical attention for § 87(2)(b) (34 Board Review).

Sgt. Delacruz's statements are corroborated by the Police Radio Communications for Event D19050623109 **(35 Board Review)**. In the recording of the communications, at 6:57 p.m., PO Hinderman can be heard requesting an ambulance for a sick prisoner, and Sgt. Delacruz can be heard telling the operator to hurry with the ambulance because a person is having a seizure **(35 Board Review)**.

The Medical Treatment of Prisoner Report (MTPR) filed by PO Hinderman states that § 87(2)(b) has "Pain to neck, back, and both knees; prisoner had a seizure," **(36 Board Review)**. It also states that "Prisoner Refused Medical Aid in the Field: Yes," **(36 Board Review)**. During his interview at the CCRB, PO Hinderman was shown the MTPR and stated that he was instructed by PO Monestime to file the report **(32 Board Review)**. PO Hinderman did not remember if PO Monestime provided any details to place in the report. PO Hinderman did not recall if § 87(2)(b) had a seizure in the cells of the precinct stationhouse. PO Hinderman stated that the seizure in the MTPR was about the incident in the vehicle on the way to the stationhouse **(32 Board Review)**. When asked why he put seizure in the report, PO Hinderman stated that it was the best way to describe what happened to § 87(2)(b) but that he did not believe § 87(2)(b) actually had a seizure **(32 Board Review)**.

§ 87(2)(b) medical records from § 87(2)(b) from the night of May 6, 2019 state that he was admitted at 7:58 p.m. for a seizure and given anti-seizure medication **(37 Board Review)**.

NYPD Patrol Guide Procedure 210-04, "Prisoners Requiring Medical/Psychiatric Treatment" states, in all capital letters, "IN ALL LIFE THREATENING SITUATIONS, APPARENT HEART ATTACK...EPILEPSY...A PRISONER WILL BE REMOVED TO THE NEAREST HOSPITAL," **(38 Board Review)**.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party. § 87(2)(b)
- PO Gaylog has been a member of service for two years and this is the first complaint to which he has been a party.
- PO Monestime has been a member of service for four years and has been a subject in one other CCRB complaint and one other allegation, which has not been substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.

- § 87(2)(b) filed a Notice of Claim with the City of New York claiming a broken rack and pinion, control arm, and damaged upholstery, and is seeking \$6,203.46 as redress (**43 Board Review**). There is no 50H hearing scheduled.

- § 87(2)(b), § 87(2)(c)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date